

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

GEORGE L. ROSAS, *et al*,

Plaintiffs,

VS.

SHERIFF KAE LIN, *et al*,

Defendants.

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CIVIL ACTION NO. C-09-310

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO DISMISS ACTION**

On January 22, 2010, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending as follows:


1. that all claims brought by plaintiff Melody McGill be dismissed without prejudice;
2. that as to plaintiff Rosas' claims, the Court find that plaintiff has failed to state cognizable constitutional claims against defendants and/or that his claims are frivolous, and that this action be dismissed with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); and
3. that because this is a dismissal described by 28 U.S.C. § 1915(g) (a "strike" for frivolous filing), that the Court instruct the Clerk to provide copies of the dismissal order to the parties, to the TDCJ–Office of the General Counsel, P.O. Box 13084, Austin, Texas, 78711, Fax Number (512) 936-2159, and to the District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler Texas, 75702, Attention: Betty Parker.

Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is ORDERED as follows:

1. all claims brought by plaintiff Melody McGill are dismissed without prejudice;
2. as to plaintiff Rosas' claims, the Court find that plaintiff has failed to state cognizable constitutional claims against defendants and/or that his claims are frivolous, and this action is dismissed with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); and
3. because this is a dismissal described by 28 U.S.C. § 1915(g) (a "strike" for frivolous filing), the Court instructs the Clerk to provide copies of the dismissal order to the parties, to the TDCJ–Office of the General Counsel, P.O. Box 13084, Austin, Texas, 78711, Fax Number (512) 936-2159, and to the District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler Texas, 75702, Attention: Betty Parker.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 17th day of February, 2010.


Janis Graham Jack
United States District Judge